

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY
<div><input type="checkbox"/> <i>Individual appearing without attorney</i></div> <div><input type="checkbox"/> <i>Attorney for:</i></div>	

<b>UNITED STATES BANKRUPTCY COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA - _____ DIVISION</b>	
In re:	CASE NO.:
	CHAPTER:
Debtor(s).	<b>NOTICE OF SALE OF ESTATE PROPERTY</b>

<b>Sale Date:</b>	<b>Time:</b>
<b>Location:</b>	

**Type of Sale:** ☐ Public ☐ Private **Last date to file objections:** \_\_\_\_\_

**Description of property to be sold:**

**Terms and conditions of sale:**

**Proposed sale price:** \_\_\_\_\_

**Overbid procedure (*if any*):**

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

**Contact person for potential bidders (*include name, address, telephone, fax and/or email address*):**

Date: \_\_\_\_\_

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7

8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA - NORTHERN DIVISION**

10 In re  
11 ROBERT HESSELGESSER, M.D.,  
12 Debtor.

Case No. 9:17-bk-11579-DS

Chapter 7

**NOTICE OF CHAPTER 7 TRUSTEE'S  
MOTION FOR ORDER AUTHORIZING  
CHAPTER 7 TRUSTEE TO:**

- 13  
14 (1) **CONDUCT AN AUCTION SALE OF  
PERSONAL PROPERTY OF THE  
ESTATE FREE AND CLEAR OF LIENS  
PURSUANT TO 11 U.S.C. §§ 363(b) AND  
15 (f);**  
16 (2) **EMPLOY HINDMAN, LLC, AS  
AUCTIONEER AND PAY  
17 COMPENSATION AND EXPENSES TO  
THE AUCTIONEER; AND**  
18 (3) **PAY COSTS OF THE AUCTION**

19 [No Hearing Required Pursuant to Local  
20 Bankruptcy Rule 9013-1(o)]

21 **TO ALL PARTIES IN INTEREST:**

22 **PLEASE TAKE NOTICE** that Jeremy W. Faith, the duly appointed, qualified and  
acting chapter 7 trustee (the "Trustee") for the bankruptcy estate (the "Estate") of Robert  
23 Hesselgesser, M.D. (the "Debtor"), has filed the Motion for Order Authorizing Chapter 7  
Trustee to: (1) Conduct an Auction Sale of Personal Property of the Estate Pursuant to  
24 11 U.S.C. §§ 363(b) and (f); (2) Employ Hindman, LLC, as Auctioneer and Pay  
Compensation and Expenses to the Auctioneer; and (3) Pay Costs of the Auction  
25 ("Motion").<sup>1</sup> By the Motion, the Trustee seeks authority to sell several Japanese swords  
that remain from prior Court-approved sales of the Debtor's collectibles and to employ  
26 Hindman, LLC ("Auctioneer" or "Firm"), as his auctioneer to sell the assets by auction.

27  
28 <sup>1</sup> All capitalized terms have the same meaning or definition as the capitalized terms in the Motion.

The Auctioneer anticipates a gross recovery value by auction of approximately \$14,400.00 - \$20,000.00.

### **Background**

On August 31, 2017, an involuntary chapter 7 petition was filed against the Debtor by petitioning creditors Charles Aarni, Charles W. Aarni Employee Profit Sharing Plan, Allan Chodor, Mary and Marvin Owen 1993 Trust and The McGowan Exemption Trust dated 03/26/2003. The order for relief was entered on December 4, 2017. Jeremy W. Faith was appointed chapter 7 trustee on December 14, 2017.

The Debtor's scheduled real and personal property assets include antiquities, art, violins, minerals, coins, swords, jewelry, precious metals, antique guns and other collectibles. The Trustee previously was authorized to sell the Estate's interest in certain assets, including stock, Japanese swords, a mineral collection, coins and other collectibles. A collection of approximately 23 Japanese swords remains unsold from prior sales. The Auctioneer's inventory of the Property (defined below) is attached to the Motion as Exhibit 1.

### **Proposed Sale of the Property**

At the Trustee's request, Mike Yamasaki, a broker who previously conducted Court-approved sales, on behalf of the Estate, of a portion of the Debtor's Japanese sword collection, packaged and sent the remaining swords ("Property") to the Auctioneer. Based on its review, the Auctioneer anticipates a gross recovery value by auction of approximately \$14,400.00 - \$20,000.00.

The Auctioneer will store the Property pending the auction which is anticipated to be conducted on September 29, 2023, as a timed-online only auction.

The Court previously authorized the sale of the Property free and clear of liens. Further, even though the Debtor scheduled multiple secured claimants, there are filed secured proofs of claim, and there remains one valid UCC-1, these claimants are not secured by the Property. The two claimants that had blanket liens were Pacific Western Bank ("PWB") and the Internal Revenue Service ("IRS"). The Trustee has paid PWB's secured claim pursuant to the terms of a Court approved stipulation and the secured portion of the IRS's claim excluding penalties.

The Trustee proposes to sell the Property by lot with no reserve at a timed-online auction ("Auction") to be conducted on September 29, 2023, following which there will be a 35-day checkout period.

The terms of the proposed Auction as set forth in the Consignment Agreement (together, ("Agreement"),<sup>2</sup> a copy of which is attached to the Motion as Exhibit 2, are:

- (1) The Auctioneer shall arrange, prepare for inspection and sale, photograph and number the assets in lots, catalog same, and register buyers;
- (2) Following notice and advertising, the Property will be sold by lot with no reserve to the highest bidder(s) at the Auction;

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<sup>2</sup> The Agreement authorizes the Auctioneer to pay out of its commission or elsewhere a fee to any third-party introducing property or clients to the Auctioneer.

(3) The Auctioneer will be entitled to a minimum commission<sup>3</sup> of \$100 per lot:

- (a) \$0 - \$2,499 35% of the hammer price
- (b) \$2,500 - \$9,999 25% of the hammer price
- (c) \$10,000 and above 10% of the hammer price

(4) a 26% buyer's premium will be added to the cost of each sale which will not be paid from the proceeds of the Auction;

(5) The Auctioneer will be paid \$427.61 for the cost of packing and transporting the Property to the Saleroom;

(6) The Auctioneer will obtain personal property coverage for the Property and will maintain the coverage until the Property has been removed by buyers; and

(7) The Auctioneer will be responsible for collecting money from buyers, providing a bill of sale to buyers, and paying all applicable sales taxes. The Auctioneer shall turn over the gross proceeds less applicable sales taxes<sup>4</sup> to the Trustee on the first business day subsequent to 35 days after the Auction. The Auctioneer shall submit a sold item and expense report ("Auction Report") to the Trustee on the first business day subsequent to 35 days after the Auction. The Auction Report will include, at a minimum: the date of the sale, each item sold, the sale price and the name, address, and telephone number of the purchaser – in the case of lots, a brief description of each lot sold as well as the sale price and purchaser thereof – the gross proceeds of sale, a statement that the gross proceeds have been turned over to the Trustee, and a descriptive list of the items that were not sold. Within 7 days of receipt of the Auction Report, the Trustee shall file the Auction Report with the Bankruptcy Court together with a declaration ("Trustee's Declaration") stating that: the Trustee has compared the Auction Report to the list of items/lots sold, the Auction Report is satisfactory, the gross funds have been turned over to the Trustee, and the Auctioneer has been compensated pursuant to the terms previously approved by the Court or will be compensated in the future consistent with the terms of a duly noticed application for compensation. Provided this Motion has been granted, the Trustee shall compensate the Auctioneer for the Court-approved fees and expenses within 7 calendar days of filing the Auction Report and Trustee's Declaration with the Court.

The Auctioneer, an internationally recognized fine art auction house, conducts over 140 auctions annually across 52 collecting categories. Founded and headquartered in Chicago, the Auctioneer is now represented in 16 cities in the United States and operates six salerooms. The Auctioneer has extensive experience and knowledge in conducting sales and auctions of the type contemplated herein and is well qualified to conduct the proposed Auction of the Property.

The Auctioneer maintains a \$25,000.00 bankruptcy auction bond ("Bond"). A copy of Bond No. 83BSBJA8958 is attached to the Motion as Exhibit 3.

The Auctioneer will provide personal property insurance coverage through Great American Insurance Company for the appraised value of the Property and will maintain such coverage until the Property has been removed by buyers. A copy of the Evidence of Insurance is attached to the Motion as Exhibit 4.

<sup>3</sup> The Auctioneer anticipates that each lot will have a hammer price of less than \$5,000 and that the commission would be either 35% or 25% of the hammer price.

<sup>4</sup> The Auctioneer will collect and remit appropriate sales tax.

**Employment of the Auctioneer**

The Trustee proposes to employ the Auctioneer to provide advertising, cataloging, registration of bidders, auctioneering, check-out and collection services for the sale of the Property. The Auctioneer is highly experienced, does not hold an interest adverse to the Estate, is not a creditor of the Debtor, and no one employed by the Auctioneer is related to the bankruptcy judge in this case.

The terms of the Auctioneer's proposed employment provide that the Auctioneer will receive:

- (1) a minimum commission of \$100 per lot:
  - (a) \$0 - \$2,499 35% of the hammer price
  - (b) \$2,500 - \$9,999 25% of the hammer price
  - (c) \$10,000 and above 10% of the hammer price
- (2) a 26% buyer's premium to be added to the cost of each sale which will not be paid from the proceeds of the Auction;
- (3) \$427.61 for the cost of packing and transporting the Property to the Saleroom;

The Auctioneer will be responsible for collecting money from the buyers, providing a bill of sale to buyers, and paying all applicable sales taxes. The Auctioneer shall turn over the gross proceeds less applicable sales taxes to the Trustee on the first business day subsequent to 35 days after the Auction. The Auctioneer shall submit the Auction Report to the Trustee on the first business day subsequent to 35 days after the Auction. Within 7 days of receipt of the Auction Report, the Trustee shall file the Auction Report with the Bankruptcy Court together with the Trustee's Declaration. Provided the Motion has been granted, the Trustee shall compensate the Auctioneer for the Court-approved fees and expenses within 7 calendar days of filing the Auction Report and the Trustee's Declaration with the Court.

The Trustee believes there will be no tax liability from the sale of the Property since it is anticipated that the ultimate sales price will be less than the amount the Debtor paid to acquire the Property. In its Schedules, the Debtor valued all his real and personal property assets at more than \$74 million. See Dkt. 89. If there is any resulting tax liability that exists beyond the taxes paid by the Auctioneer as part of the auction, the tax liability will be paid from the net sale proceeds.

**Summary of Bases for Relief**

The Trustee estimates the Estate will receive approximately \$8,932.39 - \$12,572.39 in net proceeds from the proposed auction. Because funds will be generated for payment to creditors, a sound business reason exists for the sale and the sale should be approved.

**Summary of Relief Sought by the Motion**

By the Motion, the Trustee seeks entry of an order providing for the following relief:

1. Authorizing the Trustee to employ the Auctioneer as the Trustee's auctioneer, on the terms and conditions stated in the Agreement attached to the Motion as Exhibit 2 (including but not limited to those relating to compensation for the Auctioneer) pursuant to 11 U.S.C. §§ 327(a) and 328(a), and authorizing payment of the Auctioneer's fees and expenses without the necessity of a separate fee application;

2. Approving the terms of the Agreement;

3. Authorizing the sale of the Property as-is, where-is, without representation or warranty, free and clear of any and all liens and interests pursuant to 11 U.S.C. §§ 363(b) and (f);  
4. Authorizing the Trustee to pay actual costs incurred in connection with the Auction;  
5. Authorizing the Trustee to take any and all necessary action to consummate the sale of the Property;  
6. Authorizing the Trustee to pay any resulting tax liability that exists beyond the sales taxes paid by the Auctioneer as part of the auction, from the net sale proceeds;  
7. Waiving any requirements for lodging periods imposed by Local Bankruptcy Rule 9021-1 and any other applicable bankruptcy rules;  
8. Waiving the stay imposed by Federal Rule of Bankruptcy Procedure 6004(h) and any other applicable bankruptcy rules; and  
9. Granting such other and further relief as the Court may deem just and proper.

A copy of the Motion is on file with the Court and available by contacting the Trustee's counsel.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Local Rule 9013-1(o)(1), any party objecting to the Motion may request a hearing on the Motion by filing a written "Objection and Request for Hearing." The deadline for filing and serving a written opposition and request for a hearing is **14 days** after the date of service of this notice, plus 3 additional days if you were served by mail, electronically, or pursuant to F.R.Civ.P. 5(b)(2)(D), (E), or (F). You must serve a copy of the "Objection and Request for Hearing" on the Trustee's counsel at the address above and on the United States Trustee. Failure to timely file and serve the "Objection and Request for Hearing" may result in the Court's entry of an order approving the Motion.

**PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule 9013-1(h) provides the following: "Papers not timely filed and served may be deemed by the Court to be consent to the granting or denial of the motion, as the case may be."

Dated: June 23, 2023

GOLDEN GOODRICH LLP

By: /s/ Beth E. Gaschen  
JEFFREY I. GOLDEN  
BETH E. GASCHEN  
Attorneys for Chapter 7 Trustee  
Jeremy W. Faith

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

650 Town Center, Suite 600 Costa Mesa CA 92626

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF CHAPTER 7 TRUSTEE'S MOTION FOR ORDER AUTHORIZING CHAPTER 7 TRUSTEE TO: (1) CONDUCT AN AUCTION SALE OF PERSONAL PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS PURSUANT TO 11 U.S.C. §§ 363(b) AND (f); (2) EMPLOY HINDMAN, LLC, AS AUCTIONEER AND PAY COMPENSATION AND EXPENSES TO THE AUCTIONEER; AND (3) PAY COSTS OF THE AUCTION** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 06/23/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) 06/23/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Annie Wu  
Vice President, Director, Asian Works of Art  
Hindman  
222 North Maplewood  
Avenue Chicago, IL 60612

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 06/23/23, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served By Email: Annie Wu  
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☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

06/23/2023  
Date

Evelyn Ruiz  
Printed Name

  
Signature



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Simi Valley, CA 93063-1010

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Scott A. Wayne  
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Survivors Trust/Shields Family Trust  
Dated June 9, 2014 DK Law Group  
3155 Old Conejo Road  
Thousand Oaks, CA 91320-2151

United States Trustee (ND)  
915 Wilshire Blvd, Suite 1850  
Los Angeles, CA 90017-3560

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The McGowan Exemption Trust dated  
3/26/2003  
c/o Lynne McGowan, Trustee  
3143 Scottys Terrace  
Simi Valley, CA 93063

Union Bank  
Attn: Mr. Bradley Starr  
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Woodland Hills, CA 91367-3642

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VENTURA, CA 93009-0001

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1402 Plantation Drive-  
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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

650 Town Center, Suite 600 Costa Mesa, CA 92626

A true and correct copy of the foregoing document entitled (*specify*): NOTICE OF SALE OF ESTATE PROPERTY will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 06/23/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page


**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

06/23/2023  
Date

Evelyn Ruiz  
Printed Name

  
Signature

**Nef Mailing List**

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